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October 29, 1997

William F. Caton, Acting Secretary
Office of the Secretary, Room 222
Federal Communications Commission
1919 M Street, NW
Washington, DC 20554

Dear Mr. Caton and Members of the Commission:

Re: FCC Rule Making Docket #97-182

In the Matter of Preemption of State and Local Zoning and Land Use Restrictions on the
Siting, Placement and Construction of Broadcast Station Transmission Facilities

The referenced Proposed Rule Making was discussed by the Board of Supervisors, the governing body of Halifax County, Virginia, at a meeting October 20, 1997. At that meeting, by unanimous vote, the Board of Supervisors resolved to oppose this Rule Making.

The Board of Supervisors is very concerned about the preemption of local zoning and land use authority for the siting of digital television facilities, and further, that this could be a first step for similar preemptions on other types of communications facilities.

Item 4 in the Notice of Proposed Rule Making expresses a fear of Petitioners of review processes lasting several months, and with appeals, several years. I believe that localities' histories would show that "several months" processing would be extremely rare, and that most such facilities are addressed within a reasonable time. The 21 day, 30 day, and 45 day time frames set out for various actions in Item 6 of the Proposed Rule Making is unrealistic for local governments and is not conducive to rational decision making. Many local governments meet only once or twice per month, with permitting authority for such facilities generally resting with that local governing body. The proposal fails to take into account meeting schedules, and more importantly, the ability of local land use staff and elected officials to adequately investigate and analyze such proposals. Further, by having a short, finite time frame to act, no flexibility is allowed for negotiation between communications site applicants, local citizenry, and local governments to evaluate suggested alternate sites or alternate facility designs before a positive or negative vote must be taken on the original application. This flexibility has worked very well in Halifax County when original proposed sites or designs were of questionable suitability. In terms of time frames taken by the Halifax County governing body for review of communications facilities (related to Item 19 of the Proposed Rule Making) Halifax County has processed applications for cellular and broadcast facilities, and of the numerous such applications, none has taken longer than 90 days to

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resolve, with most being ultimately resolved in favor of the applicant. Petitioner is asking for a maximum 45 day local time frame on an application that Petitioner would spend months preparing.

Petitioners proposal that a local government must demonstrate that a requirement is reasonable in order to meet health and safety objectives omits a fundamental premise of Virginia state law and Virginia local government ordinance. Throughout local and state statutes, language is clear regarding the relationship of a proposal to "health, safety and welfare" objectives (emphasis added). Considerations under this third category address such items as aesthetics, property values, environmental, impact on historic or scenic areas, compatibility with neighborhood character, and anticipated growth patterns, etc. The proposal appears contrary to this historical review and decision making process followed by local governments in Virginia.

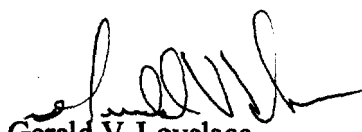
Petitioners proposed rule requires delivery of decisions of denial and supporting evidence within five (5) days of decision, per Item 9. Unless costly, extraordinary means are used, a local government has no way to guarantee that mail delivery would occur within that time frame.

A final comment concerns the appeal avenue requested by Petitioner. Virginia statutes require that appeals of zoning decisions of a local governing body go to a board of zoning appeals or circuit court of local jurisdiction. The Petitioner is requesting that such appeals go directly to the Federal Communications Commission, thus putting a decision of local land use in the hands of a body that has no knowledge of a local community, its character, or local land use goals and objectives. Such a decision should remain in the hands of a body that does reflect local community standards.

In summary, land use decisions are best left in the hands of local leaders. In those rare instances where a local decision making process does not follow statutory and reasonable guidelines, courts are available for resolution. The usurping of local land use authority by a federal agency is contrary to the foundations upon which all levels of governmental authority are based.

Halifax County, Virginia would be pleased to provide additional information and comment if requested.

Sincerely,



Gerald V. Lovelace
Assistant County Administrator
or Planning and Operations

GVL:bp